

The Other BCCI 8/22/93 Scandal

The Prosecutors, the Pack And the Altman Acquittal

By Terence Moran

THE THUNDEROUS acquittal of Robert Altman by a New York jury on Aug. 14 tacked a bewildering ending on the Washington subplot of the winding drama of BCCI. With the verdict, the morality play starring two power brokers, one Wonder Woman and a cabal of financiers is, rather anticlimactically, over. But the Altman case is part of another, less familiar, narrative that this verdict will do little to bring to closure: the story of how prosecutors have become spin doctors. With the help of journalists, they're the new ringmasters of America's media circus.

One of the most frightening sights of modern life is a media pack on the run. If you haven't seen one up close, you can't grasp how carnivorous the thing can be. "Pack" is a misnomer; it's really a single organism, a half-human, half-mechanical beast, bristling with cable and tape, that loves to prey on the rich and fatuous. Such frenzy is not always outrageous or unjust. In a free society, media zeal usually works out to be a bargain. But sometimes—and especially in the coverage of criminal cases—a good story comes at the cost of justice.

That's because big trials today often have less to do with what goes on in courtrooms, with the dull muddling through mounds of blurry evidence. They're about characters more than defendants, plots more than proof. And what ought to be deeply disturbing is that the state, in the person of an unwise or even unscrupulous prosecutor, is frequently the prime force behind this distortion of the civil order. From the prosecution of local toughs like Rayful Edmond to the sideshow trials of politicians like Marion Barry, one side of the story dominates the news—the government's.

Consider the Altman acquittal. The jurors apparently didn't give a hoot about dramatic integrity. They heard months of evidence presented by the Manhattan district attorney's office that portrayed the defendant as one of the masterminds of a vast fraud on the American people. Then, not only did they acquit the guy (after the judge had contemptuously tossed out half the prosecution's case), they partied with him after it was over. "This man was innocent from the start," one of the jurors announced to a crowd of reporters.

Why didn't those reporters warn us that the prosecution was off the mark? Because by the time the Washington angle of the BCCI story reached the New York courtroom, the case had become the handiwork of media-savvy prosecutors.

Let's step back a minute, to the days when BCCI was the terrain of a few hardy freelance reporters and investigative units willing to master the arcana of international banking law. The first stories, back in 1990, examined the subtle connections between BCCI—a Luxemburg-based bank operating worldwide out of the control of regulators—and First American Bankshares. Those stories questioned the extent to which Clark Clifford was subject to, or aware of, BCCI's influence on his

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bank, but carefully avoided conclusions. Then it was revealed that Clifford and Altman made nearly \$10 million on a stock deal financed by BCCI. Again, the stories highlighted conduct that raised serious questions about international banking and Washington influence-peddling but was not necessarily illegal. The distinction between disturbing and illicit is a complicated one—perhaps too complicated for the pack, which must have been relieved in 1991 when Altman and Clifford became the subjects of a criminal prosecution. Now, blessedly, there was a story line to this dense tome on banking byways.

After the indictments, every major news organization worth the name produced at least one big story on Clifford and Altman. A lot of these stories sounded eerily similar; it was as if reporters shared one vast save-get key on their word processors, a key filled with ready-made references to Clifford's illustrious career and Altman's lovely wife. On TV, the same points were made with vintage footage from the Truman administration and tape of Lynda Carter.

But the stories on the case had more than clichés in common. Charges against the two lawyer-bankers tended to be repeated without qualification, while Clifford and Altman's defense was told, more than once, to "a skeptical audience." Meanwhile, certain details that were part of the original BCCI reporting—but that now got in the way of the good story of two rich bad guys—were buried. Like the fact that their bank made money. Boatloads of money. If they were ripping people off on behalf of Arab investors (everybody's favorite heavy, by the way; the

racial insinuations in this story are chilling), they were doing a darn lousy job of it.

So who were the victims, then? That was unclear—like so much of the BCCI scandal. Take the famous nonrecourse loans that Clifford and Altman received from BCCI, and which the New York prosecutor called "bribes." Those loans were made on far better terms than the man on the street could get, but they were reported to the IRS and paid back in full with interest. What to do with all this nuance?

Enter the prosecutor.

What makes David Gergen good at his job can make Manhattan District Attorney Robert Morgenthau look good too. Prosecutors know what reporters need to do their job—clear lines of conflict, scoops and a sense that they're on the side of social justice. In the Clifford-Altman case, these journalistic vulnerabilities were exploited.

For example, just after BCCI was shut down in 1991, and as Morgenthau's grand jury investigation was heating up, Newsweek magazine ran a portentous piece focusing on the Washington angle to the story, headlined "The Influence Game." In it, one or more of the six reporters who shared a byline offered this link between Clifford and Altman and the international scandal: "Sources [note the refusal to specify number, relationship to the government or axe to grind] tell Newsweek that for 10 years beginning in the late 1970s Clifford would fly to London roughly once a month on the Concorde, have breakfast with [BCCI founder Agha Hasan] Abedi at the Inn on the Park, and later BCCI CEO Swaleh Nagvi."

Whoever fed this dollop of a scoop to Newsweek knew precisely what he or she was doing. It's a classic instance of Gergen's technique ap-

plied to a criminal case. Storytellers live by detail, and though it's no crime to fly the Concorde or breakfast at the Inn on the Park, it somehow sounds corrupt. And if the story you're telling has a stirring moral ("This was, in some ways a typical drama of Washington influence-peddling, albeit one performed by the most acclaimed actor in the theater," Newsweek concluded), the ritzy revelations are crucial. They turned up a year later in the New York case.

Lots of news organizations were playing the same game. The Wall Street Journal, for instance, had Altman blithely lurching at Duke Zeibert's with Larry King, dancing resplendently with his wife at an inaugural ball as the scandal swirled around him. Such shots were hard to resist; they bolstered the burgeoning populist outrage over the federal government's remoteness and ready accessibility to the rich and well-connected. The story also lent itself to partisan purposes, an angle the New York prosecutors were not bashful about deploying.

By the summer of 1992, when the Clifford and Altman indictments were handed up, the Bush administration's Justice Department had, shall we say, credibility problems. These problems had become an election issue, and the BCCI case thus was caught up in the campaign. A struggle between state and federal prosecutors over the scope of the investigation was regularly played out in the news, with the Justice Department getting the worst of it. On July 30, 1992, the New York Times and Washington Post editorial pages weighed in, championing Morgenthau's case against the Bush administration's. Citing "the superior detective work of Manhattan's district attorney," the Times stroked Morgenthau for "leading the way in cracking the case."

The Post went even further: "For one, the Justice Department's contributions to the investigation have been conspicuously modest. The real initiative and energy are coming from Robert M. Morgenthau, the New York district at-

torney, and the New York indictments reach much farther than the federal one. Does that not strike you as curious?" Well, it *does* strike one that the New York prosecutors were doing a better job working the press.

Clifford and Altman "were not the central figures in the enormous conspiracy that these indictments portray," the Post editorial demurred at one point. "Mr. Clifford and Mr. Altman were only working for others and, according to the charges, taking bribes to do that work." Two paragraphs later in the editorial, the "according to" caveat was dropped: "Bribery was the bank's normal method of doing business, and while it was busy here in Washington, it preyed mainly on the Third World."

Two months later, the nation's press reported that four former officials of the National Bank of Georgia had been charged with fraud and other crimes in the BCCI case. One of these men was described as having "valuable information" about Clifford and Altman's dealings with BCCI. This "key witness" never materialized at the trial. That fact, though, made no headlines.

Hindsight, of course, is easy. The debacle of the Altman trial doesn't mean that the prosecutors who brought the case are fanatics or that the reporters who covered it are dupes. Altman—and by extension Clifford—were found not guilty of criminal conduct, but there's a lot of venality in the world that isn't criminal, and sometime prosecutors are justified in testing the boundary between what's wrong and what's against the law (though as Michael Kinsley has famously noted, the real scandal in Washington is what's perfectly legal). Justice isn't an exact science.

But it's also not a screenplay. The disturbing aspect of the BCCI case in New York is the way so many people inside and outside the government struggled so mightily to force the messy details of an extended financial escapade into a simple storyline. Arabs bribing lawyers, the mighty fallen low, power for sale, age snookered

by youth—the prosaic evidence took a back seat to cheap melodrama. The costs of such seductions are high. The hankering in this case for a clear plot and a clean ending stems from a fundamental confusion about the purpose of criminal law. The cozy entente between state power and press power so blatantly at work here is the worrisome product of that misconception.

We want too many things to be illegal. Greed, rudeness, the lust for power, the peddling of influence—there is a constant clamoring to criminalize what are essentially moral failings. But our moral vocabulary is shot; illegality has become practically the only socially acceptable form of communal opprobrium. That's why it's so helpful to reporters when someone gets indicted: Then they can call him a swine with justification.

But police power is a mighty blunt instrument to use in defining virtue in society. Combine it with the enormous narrative power of the modern media, and you've got a recipe for nasty little tyrannies—state-sponsored scandals that wreck people's lives—and the remote (but, perhaps, less remote than one might hope) potential for a great big tyranny. Recall who put on the first circuses.

Ray Donovan, John Connally, former New York State Assembly Leader Mel Miller, Imelda Marcos, William Kennedy Smith: All were found not guilty of charges made against them. But the smell still rises from their names.

That great skeptic of state power, the late I.F. Stone, developed a very handy rule of thumb for assessing the true importance of a story in the press. The amount of news at an event, Stone reasoned, is in inverse proportion to the number of reporters covering it. Student of history that he was, Stone knew where most news has come from down through the ages. Next time you see a braying pack of reporters closing in for the kill on some poor sap stuck in the middle of a scandal, remember Stone's Theorem. And wait for the verdict.